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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**In re Application of:**

Yoshihiro NAKAO et al.

Confirmation No. 5495

**Application No.:** 10/791,791

**Group Art Unit:** 1634

**Filed:** March 4, 2004

**Examiner:** James Martinell, Ph.D.

**Title:** SCREENING METHOD FOR GENES OF BREWING YEAST

MAIL STOP AMENDMENT

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

**RESPONSE TO OFFICIAL COMMUNICATION / NON-COMPLIANT  
SUBMISSION**

Sir:

In response to the Office Action mailed September 14, 2006, Applicants submit the corrected Reply with appropriate changes to the Listing of the Claims. Due to the nature of the response, Applicants have submitted the reply from July 20, 2006 in its entirety with the changes necessary on pages 7, 8, and 17, because page 17 includes the signature page.

Regarding the assertion that the Applicants did not address the provisional obviousness-type double patent rejection, Applicants disagree. First, Applicants have always requested and always have had Examiners hold provisional double patenting rejections in abeyance until the rejection is no longer provisional (*i.e.* claims have been found allowable) or the rejection is no longer applicable (*i.e.*, the claims have been amended or due to restriction requirements and election of different groups). Second, Applicants respectfully disagree with the Office that Applicants did not "offer to file a terminal disclaimer". Applicants believe that their prior paper indicated that they would consider a terminal disclaimer at the time the rejection was no longer provisional. However, to the extent that was unclear, Applicants have clarified the response regarding said offer in order to address the Office's point.

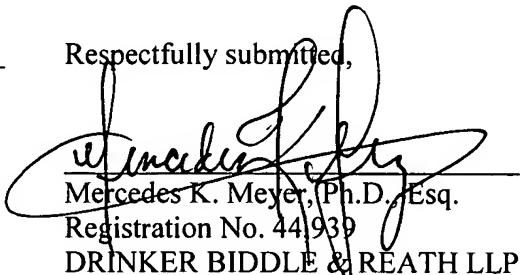
It is believed that with this submission, Applicants have provided a full response to the outstanding Office Action. Should any issues remain outstanding, the Office is invited to telephone the undersigned representative at its earliest convenience.

Attorney Docket No.: 47635.0002  
Application No. 10/791,791  
Reply to Office Action Dated: September 14, 2006  
Reply Dated: October 5, 2006

**EXCEPT** for issue fees payable under 37 C.F.R. § 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. §§ 1.16 and 1.17 which may be required, including any required extension of time fees, and Notice of Appeal fees, or credit any overpayment to Deposit Account No. 50-0573. This paragraph is intended to be a **CONSTRUCTIVE PETITION FOR EXTENSION OF TIME** in accordance with 37 C.F.R. § 1.136(a)(3).

Date: October 5, 2006

Respectfully submitted,

  
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**AMENDMENT AND REPLY UNDER 37 C.F.R. §§ 1.111 AND 1.821-1.825**

Sir:

In response to the Office Action mailed February 23, 2006, the Examiner is respectfully requested to consider and enter the following amendments and remarks. A Petition for a one-month extension of time and corresponding fee extending the time period of response until July 23, 2006 is being submitted herewith.

Amendments to the Specification begin on page 2.

Amendments to the Claims begin on page 7.

Remarks begin on page 14.